

IN THE SUPREME COURT OF CALIFORNIA

In re)	
)	
RONALD HAROLD SEATON)	
)	
)	S067491
on Habeas Corpus.)	

BY THE COURT:

MODIFICATION OF OPINION

The opinion in this case, filed on August 23, 2004 (34 Cal.4th 193), is modified to add this footnote after the citation to *In re Robbins* (1998) 18 Cal.4th 770, 814, fn. 34 on page ____ (slip opn., p. 7):

For the sake of clarity, we explain why, in certain instances, our orders disposing of habeas corpus claims will not mention the petitioner's failure to raise the claim at trial.

When we reject a claim on direct appeal, and the defendant thereafter raises the same claim in a habeas corpus petition, we bar the claim because it was raised and rejected on appeal (*In re Waltreus, supra*, 62 Cal.2d at p. 225), thereby invoking the ground on which we rejected the claim on direct appeal. Thus, when an opinion of this court bars a claim on direct appeal because it was forfeited by the defendant's failure to object at trial, and we thereafter bar the identical claim in a habeas corpus petition because it was raised and rejected on appeal, we reaffirm our holding on direct appeal that the claim was forfeited. Accordingly, in such instances there is no need to *also* state, as a *separate* ground for

rejecting the habeas corpus claim, that the defendant forfeited the claim by failing to raise it at trial, and our orders will not do so.

Our *Dixon* bar (*In re Dixon, supra*, 41 Cal.2d at p. 759) states that certain types of claims may not be raised on habeas corpus if they should have been, but were not, raised on appeal. When we determine that a claim in a habeas corpus petition is barred by *Dixon*, we do not, as a general rule, go on to decide whether the claim is also barred because the defendant did not object at trial. What we mean when we invoke the *Dixon* bar is that the claim is *based on the appellate record*, and thus was fully cognizable on appeal insofar as it was preserved at trial. Hence, we need not engage in the sometimes complex and time-consuming task of determining separately whether a claim was forfeited at trial by failure to object before concluding, under *Dixon*, that the proper means, if any, of obtaining review of the claim was by direct appeal.

This modification does not affect the judgment.